CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

October 21, 2002

H.R. 2880

Five Nations Indian Land Reform Act

As ordered reported by the Senate Committee on Indian Affairs on September 25, 2002

SUMMARY

H.R. 2880 would make various changes to the laws that regulate restricted land held by individual Indians of the Five Nations tribes in Oklahoma (Muscogee, Seminole, Cherokee, Chickasaw, and Choctaw). Restricted land generally refers to certain real property owned by individual Indians of those tribes that is encumbered by certain federal laws. Assuming appropriation of the necessary amounts, CBO estimates that implementing the act would cost $70 million over the 2004-2007 period to pay for additional administrative costs of the Department of the Interior (DOI). Enacting H.R. 2880 would not affect direct spending or revenues.

H.R. 2880 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA). Enacting this legislation would involve some costs and some benefits for the state of Oklahoma and for local governments in the state, but these would not be caused by mandates. CBO cannot determine the net impact of the act on these governments.

H.R. 2880 would grant authority to the Secretary of the Interior to partition certain parcels of undivided property for individual Indians of the Five Nations who own interests in such property if certain conditions are met. The act would also grant the Secretary the authority to consent to the partition of such undivided property on behalf of individual owners of the Five Nations who cannot provide consent themselves. In the event that the Secretary orders a partition without the consent of each of the property owners, H.R. 2880 would impose a private-sector mandate on those not consenting to the partition. CBO estimates that the cost of the mandate would be well under the annual threshold established in UMRA ($115 million in 2002, adjusted annually for inflation). Through the partition process, each owner would receive a parcel or some other form of compensation in proportion to his interest in the property.

MAJOR PROVISIONS

H.R. 2880 would make several changes to federal laws concerning restricted land held by individual Indians of the Five Nations. In particular, the act would:

- Make all restricted property subject to restrictions against alienation, conveyance, lease, mortgage, or creation of liens regardless of the degree of Indian blood of the individual Indian who owns the property;

- Establish requirements enabling individual Indians to use proceeds from the conveyance of restricted property to purchase other property to be held in restricted status;

- Grant the Secretary of the Interior exclusive jurisdiction to approve conveyances, leases, and voluntary partition-in-kind of restricted property;

- Grant the Secretary exclusive jurisdiction to probate wills or determine heirs of deceased individual Indians and to adjudicate estate actions involving trust or restricted property and securities; and

- Authorize the Secretary to administer certain oil and gas leases on restricted lands held by individual Indians.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 2880 is shown in the following table. The costs of this legislation fall within budget functions 450 (community and regional development) and 300 (natural resources and environment).

BASIS OF ESTIMATE

H.R. 2880 would make various changes to the laws that regulate restricted land held by individual Indians of the Muscogee, Seminole, Cherokee, Chickasaw, and Choctaw tribes in Oklahoma. Most of the provisions in this act, including the authorization of appropriations, would take effect on January 1, 2004. For this estimate, CBO assumes that the legislation will be enacted in fiscal year 2003 and that the necessary amounts will be appropriated for each year. CBO estimates that implementing the act would cost $70 million over the 2004-2007 period for additional administrative costs to DOI, assuming appropriation of the necessary amounts.

	By Fiscal Year, in Millions of Dollars				
	2003	2004	2005	2006	2007
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Additional Administrative Costs for the Bureau of Indian Affairs					
Estimated Authorization Level	0	8	8	8	8
Estimated Outlays	0	6	8	8	8
Additional Administrative Costs for the Minerals Management Service and Bureau of Land Management					
Estimated Authorization Level	0	11	11	11	12
Estimated Outlays	0	6	11	11	12
Total Changes					
Estimated Authorization Level	0	19	19	19	20
Estimated Outlays	0	12	19	19	20

Bureau of Indian Affairs

Based on information from the Bureau of Indian Affairs, CBO estimates that it would cost the agency $30 million over the 2004-2007 period for additional salaries and expenses to establish and maintain individual Indian accounts managed by the federal government, and to review and make determinations on the additional land transactions that would be under the exclusive jurisdiction of the Secretary of the Interior. Such costs would be subject to future appropriation action. Proceeds from the conveyance or condemnation of restricted Indian property that are held by the Secretary on behalf of individual Indians are not considered budgetary funds. Consequently, CBO estimates that any change in the amounts held in the individual Indian accounts as a result of implementing this act would have no impact on the federal budget.

Oil and Gas Royalty Management

Under current law, the Secretary of the Interior is responsible for administering oil and gas leases on lands that are held in trust on behalf of Indian tribes. Section 207 of the act would authorize the Secretary to administer certain oil and gas leases on restricted lands that are not held in trust. Based on information from DOI about the number of leases that would be added under the act, we estimate that this provision would increase federal spending by $6 million in 2004 and $40 million over the 2004-2007 period, mostly for increased costs to approve leases and audit royalty payments. Enacting the legislation would not affect federal income from oil and gas leases.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

H.R. 2880 contains no intergovernmental mandates as defined in UMRA. Enacting this legislation would involve some costs and some benefits for the state of Oklahoma and for local governments in the state, but these would not be caused by mandates. Specifically, the changes made by this act could affect the amount of property in some Oklahoma counties that is exempt from local property taxes. Also, by removing jurisdiction over matters regarding restricted property from the Oklahoma courts, this act probably would reduce the burden now borne by the state and by some of its counties. CBO does not have sufficient data to determine the net impact of this act on those governments. The act would impose no costs on any other state, local, or tribal government.

The changes made by this act would affect the tax base of Oklahoma and some of its local governments because most of the restricted property addressed by the act is exempt from state and local property taxes. We anticipate that, with no change in current law, the amount of property remaining in restricted status would decline over time. Enacting H.R. 2880 probably would slow this decline and thus result in some loss of state and local tax receipts. Also, it would make it easier for Indians to replace restricted property in one county with restricted property in another county, so it could change the distribution of this property among the affected counties.

H.R. 2880 would transfer jurisdiction for most matters concerning restricted property from state and local courts in Oklahoma to the federal government and thus would shift some of the burden now borne by these state and local courts. As a result, the state and its counties could realize some savings, which would at least partially offset their losses.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

H.R. 2880 would grant authority to the Secretary of the Interior to partition certain parcels of undivided property for individual Indians of the Five Nations who own interests in such property if certain conditions are met. Generally, a partition of this type, known as partition-in-kind, involves dividing the property into individual parcels and distributing those parcels to each interest owner in proportion to his share in the undivided property. In addition, H.R. 2880 would grant the Secretary of the Interior the authority to consent to the partition of undivided property on behalf of individual Indian owners of the Five Nations, who cannot provide consent themselves. Owners who cannot provide consent include minors, individuals under legal disability, individuals who cannot be located, and individuals whose ownership has not been determined.

Under the act, the Secretary would initiate the partition process at the request of at least one of the interest owners. Actual partition of the land would occur only after a period of negotiation between the Secretary and all available interest owners, development of a partition plan, and then approval of the partition plan by over half of the interest owners. In the event that the Secretary orders a partition without the consent of each of the property owners, H.R. 2880 would impose a private-sector mandate on those not consenting to the partition. CBO estimates that because of the small amount of land involved and the negotiation process required under the act, the cost of the mandate would be small and well below the annual threshold established in UMRA ($115 million in 2002, adjusted annually for inflation). Although the act may impose a mandate on certain interest owners, all of the owners involved in such a partition are likely to benefit as property values typically increase when undivided property interests are separated.

PREVIOUS CBO ESTIMATE

On June 10, 2002, CBO transmitted a cost estimate for H.R. 2880 as ordered reported by the House Committee on Resources on March 20, 2002. The estimated cost of the Senate version is $20 million lower because it would delay the effective date of most of the provisions by one year: to January 1, 2004, instead of January 1, 2003. CBO estimates that other differences between the two versions would have no significant budgetary impact.

The private-sector mandates in the two versions of H.R. 2880 differ slightly. The version approved by the House Committee on Resources would not grant the Secretary of the Interior the authority to consent to partition-in-kind on behalf of individual Indian property owners who could not provide consent themselves. However, that version of the legislation would grant the Secretary the authority to partition certain undivided property without the consent of all interest owners. CBO estimates that the cost of the private-sector mandates in both versions would be small and well below UMRA's annual threshold for private-sector mandates.

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